

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CITY OF NEW ROCHELLE,

Case No: 11 Civ. 01989 (CS)(LMS)

Plaintiff,

- against-

AXIS SURPLUS INSURANCE COMPANY,

Defendant.

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**DECLARATION IN SUPPORT OF PLAINTIFF CITY OF NEW ROCHELLE'S
MOTION FOR SUMMARY JUDGMENT**

STUART E. KAHAN, declares as follows:

1. He is associated with law firm of Oxman Tulis Kirkpatrick Whyatt & Geiger, LLP, attorneys for plaintiff City of New Rochelle ("City").

2. This declaration is submitted in support of the City's motion for summary judgment pursuant to Federal Rules of Civil Procedure Rules 56 (a).

3. Annexed to this declaration and made part of the City's motion for summary judgment are the following Exhibits:

- "A" City of New Rochelle's Verified Complaint (without exhibits)
- "B" City's Commercial Insurance Policy for December 31, 2009 through December 31, 2010.
- "C" Property Loss Notice dated April 5, 2010
- "D" Email from Axis dated April 5, 2010 acknowledging receipt of the claim
- "E" Request for variance filed by Applied Technology Services, Inc. on behalf of the City of New Rochelle dated April 6, 2010
- "F" Decision New York State Department of Labor dated April 7, 2010
- "G" Hemron Environmental invoices
- "H" Fifth report of GAB Robins dated November 27, 2010
- "I" First report of GAB Robins dated April 18, 2010

- “J” Final statement of loss and copies of check
- “K” Partial declination of coverage letter dated October 7, 2010
- “L” Invoices
- “M” City response to the declination of coverage letter by dated December 1, 2010
- “N” Letter dated December 16, 2010
- “O” Answer dated March 25, 2011
- “P” City’s answers to interrogatories.

WHEREFORE, it is respectfully requested that the Plaintiff’s motion for summary judgment be granted and for such other relief as this Court deems just and proper.

Dated: White Plains, New York
July 30, 2012

OXMAN TULIS KIRKPATRICK
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By: 

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